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BEFORE THE BOARD OF MEDICAL EXAMINERS

IN THE STATE OF ARIZONA

In the Matter of:

CHARLES A. HAERTER, M.D.

Holder of License No. <u>7365</u> For the Practice of Medicine In the State of Arizona. Investigation No. 12299

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER (Letter of Reprimand)

INTRODUCTION

This matter was initially heard and considered by the Board of Medical Examiners ("Board") at it public meeting on April 27, 2000 at which Charles A. Haerter, M.D., appeared with his legal counsel, Jay Fradkin, for the purpose of the Board conducting a formal interview pursuant to the authority vested in by *A.R.S.* § 32-1451(*G*). At the Board's public meeting on June 21-23, 2000, the Board resumed consideration of the matter for the purpose of reviewing and approving the following Findings of Fact, Conclusions of Law and Order. After due consideration of the facts and law applicable to this matter, the Board voted to approve and issue the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

- 1. The Board is the duly constituted authority for the regulation and control of the practice of allopathic medicine in the State of Arizona.
- 2. Charles A. Haerter, M.D., is the holder of license number 7365 for the practice of medicine in the State of Arizona.

- 3. Investigation number 12299 was initiated after the Board received notice of a malpractice settlement on July 14, 1998. Patient G.J. alleged in a superior court action that Dr. Haerter failed to diagnose kidney cancer with subsequent metastasis. Subsequent to the Superior Court complaint, Dr. Haerter settled with patient G.J.
- 4. G.J.'s pertinent medical history, including his treatment by Dr. Haerter, is as follows. In 1982, when he was fifty years of age G.J. underwent abdominal perineal resection for carcinoma of the rectum in California. When G.J. returned to his home in Lake Havasu City following the surgery, Dr. Haerter assumed care and assisted in his recovery.
- 5. In 1987, Dr. Haerter ordered an IVP and a barium enema as part of follow-up cancer surveillance for patient G.J. The IVP showed a 5.5 cm mass in the upper pole of the right kidney.
- 6. Dr. Haerter failed to note the findings on the IVP and failed to act on the findings with further testing. Patient was never informed of the findings of the 1987 IVP until 1997.
- 7. In 1997, G.J. was diagnosed with renal cell carcinoma. G.J. had increasing abdominal discomfort and negative changes in his general health for the three years prior to the 1997 diagnosis of renal cell carcinoma but Dr. Haerter did not pursue a further diagnosis.

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CONCLUSIONS OF LAW

- 1. The Board possesses jurisdiction over the subject matter hereof and over Charles A. Haerter, M.D., pursuant to A.R.S. § 32-1401, et seq.
- The conduct and circumstances described above in paragraphs 3 through 7 constitute unprofessional conduct pursuant to A.R.S. § 12-1401(25)(q), i.e., any conduct or practice which is or might be harmful or dangerous to the health of the patient or the public.
- The conduct and circumstances described above in paragraphs 3 through constitute unprofessional conduct pursuant to *A.R.S.* § 32-1401(25)(II), (i.e., any conduct that Board determines is gross negligence, repeated negligence or negligence resulting in harm to or the death of a patient).

<u>ORDER</u>

Based on the foregoing Findings of Fact and Conclusions of Law, it is hereby ordered that: Charles A. Haerter, M.D., is issued a Letter of Reprimand, for unprofessional conduct as described herein above.

RIGHT TO PETITION FOR REVIEW

The above-named physician is hereby notified that he/she has a right to file a motion for rehearing of this matter with the Board pursuant to A.R.S. § 41-1092.09, as amended. A motion for rehearing must be filed with Board's executive director in writing within thirty (30) days after service of this Order. Pursuant to Board Administrative Rule said motion must set forth legally sufficient reasons for granting a rehearing. Service of this Order is effective on

the aforementioned physician five (5) days after the date of mailing this Order by Board staff 1 2 3 4 5 6 7 8 9 10 11 (SEAL) 12 13 14 15 16 Original of the foregoing filed this 28 day of Size, 2000 with: 17 **Board Operations Section** 18 19 9545 E. Doubletree Ranch Road Scottsdale, Arizona 85258 20 Executed copy of the foregoing 21 mailed by U.S. certified mail this 28 day of 500, 2000, to: 22 23 Charles A. Haerter, M.D. 1951 Mesquite Avenue, Suite G 24 Lake Havasu City, Arizona 86403 25

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to his/her address of record. If the motion for rehearing is not timely filed, the Board's Order becomes effective thirty-five (35) days after it has been mailed to the physician named herein. Notice is also hereby given that a filing of a motion for rehearing is required to preserve any rights of appeal of this Order to the Superior Court. And the failure to file a timely motion for rehearing or review shall have the affect of waiving the physicians right to seek judicial review of the Board's decision in this matter. See A.R.S. § 41-1092.09(B). ISSUED this 27 day of _____, 2000. BOARD OF MEDICAL EXAMINERS OF THE STATE OF ARIZONA By: Tom Class CLAUDIA FOUTZ Executive Director, TOM ADAMS Assistant Director for Regulations Arizona Board of Medical Examiners

1	COPY of the foregoing mailed this 28 day of, 2000, to
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3	Gordon S. Bueler Assistant Attorney General
4	Licensing and Enforcement
5	1275 W. Washington Phoenix, Arizona 85007-2926
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7	Board Operations
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